

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

KIMBERLY MARTINEZ, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:11-CV-734-Y
§
§
T.V.O. NORTH AMERICA, LLC, §
Defendant. §
§
§

JOINT STATUS REPORT AND PROPOSED SCHEDULING ORDER

Plaintiff Kimberly Martinez and Defendant T.V.O. North America, LLC file this Joint Status Report and Proposed Scheduling Order pursuant to the Court's Order on October 25, 2011, and shows the Court as follows:

1. A brief statement of the nature of the case, including the contentions of the parties;
Plaintiff's Statement: Plaintiff claims that she was denied overtime in violation of the Fair Labor Standards Act ("FLSA").
Defendant's Statement: Defendant denies that it violated the FLSA by not paying alleged overtime.
2. Any challenge to jurisdiction or venue;
Response: None.
3. Any matters which require a conference with the court;
Response: None.
4. An assessment of the likelihood that other parties will be joined, identities of potential parties, and an estimate of the time for joinder of such parties;
Response: It is not likely that other parties will be joined. The Parties propose that that the joinder deadline be January 20, 2012.

5. Confirmation that initial mandatory disclosure required by Rule 26(a)(1) and the Court's order have been completed.

Response: The parties have agreed to exchange initial mandatory disclosures by December 30, 2011.

6. (a) a specification of the subjects on which discovery may be needed, (b) An estimate of the time needed for discovery, and (c) whether discovery should be conducted in phases or be limited to or focused upon particular issues;

Response: (a) Discovery will be needed on issues of whether the positions held by Plaintiff were exempt, the various duties of those positions, and any affirmative defenses asserted by Defendant; (b) Six months for discovery to accommodate the schedules of clients and counsel (c) Not at this time.

7. What changes, if any, should be made in the limitations on discovery imposed under the federal or local rules, and what other limitations, if any, should be imposed;

Response: None, at this time.

8. Whether any other orders should be entered by the Court pursuant to Fed. R. Civ. P. 26(c), Fed. R. Civ. P. 16(b) or Fed. R. Civ. P. 16(c);

Response: At this time, the parties do not foresee the need for an order under Rule 26(c). The parties submit the attached Joint Proposed Scheduling Order for entry under Rule 16(b).

9. Whether a jury has been demanded;

Response: A jury has been demanded.

10. Whether the parties will consent to trial (jury or nonjury) before United States Magistrate Judge per 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73(b);

Response: The parties do not consent to trial before the United States Magistrate Judge.

11. (a) An assessment of the prospects for settlement, (b) status of any settlement negotiations already conducted, and (c) the parties' agreement to a formal settlement conference;

Response: The Parties have engaged in settlement negotiations and will continue to engage as they proceed through discovery. The Parties agree to have a formal, in-person settlement conference by April 27, 2012 to discuss settlement of this matter.

12. Whether the parties will agree to mediation or to other alternative dispute resolution, and when it would be most effective (before discovery, after limited discovery, or at the close of discovery).

Response: The Parties agree to consider mediation at a later date. Mediation would be most effective after the Parties conduct discovery.

13. A statement that counsel have read the Dondi decision, 121 F.R.D. 284 (N.D. Texas 1988).

Response: Counsels for Plaintiff and Defendant have read the *Dondi* decision.

14. Any other matters relevant to the status and disposition of this case.

Response: None.

A. Proposed Scheduling Order

1. A proposed time limit to file motions for leave to join other parties.

Response: The Parties propose that the time limit to file motions for leave to join other parties shall be January 20, 2012.

2. A proposed time limit to amend pleadings.

Response: The Parties propose that pleadings be amended no later than January 20, 2012, (with affirmative defenses to same due within 20 days after).

3. A proposed time limit to file various types of motions, including dispositive motions and summary judgment.

Response: The Parties propose that all dispositive motions, including motions for summary judgment be filed by November 1, 2012. It is requested that the trial motions deadline, (for items such as motions in limine, etc.), be fourteen (14) days before trial.

4. A proposed time limit for completion of all discovery, including both factual and expert discovery.

Response:

- (a) *Discovery Deadline:* October 1, 2012.
- (b) *Initial Designation of Expert Witnesses:* April 16, 2012.
- (c) *Responsive Designation of Expert Witnesses:* May 16, 2012.
- (d) *Objections to the Designations of Expert Witnesses:* June 15, 2012.

Respectfully submitted,

/s/ Robert (Bobby) Lee

Robert (Bobby) Lee

Texas State Bar No. 00787888

lee@l-b-law.com

Carmen Artaza

Texas State Bar No. 24055114

artaza@l-b-law.com

Lee & Braziel, L.L.P.

1801 N. Lamar, Suite 325

Dallas, Texas 75202

Telephone: (214) 749-1400

Facsimile: (214) 749-1010

ATTORNEYS FOR PLAINTIFF

and

/s/ Clara B. Burns

Clara B. Burns

Texas State Bar No. 03443600

Jose A. Howard-Gonzalez

Texas State Bar No. 24067670

Kemp Smith LLP

P.O. Box 2800

El Paso, Texas 79999-2800

Phone: (915) 533-4424

Fax: (915) 546-5360

ATTORNEYS FOR DEFENDANT